1   MELINDA HAAG (CABN 132612)
     United States Attorney

2
     MIRANDA KANE (CABN 150630)
3   Chief, Criminal Division

4   DEREK OWENS (CABN 230237)
     Assistant United States Attorney

5
     450 Golden Gate Avenue, 11th Floor
6   San Francisco, California 94102
     Telephone: (415) 436-6488
7   Fax: (415) 436-7234
     Email: Derek.Owens@usdoj.gov

8
     Attorneys for the United States of America

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10   UNITED STATES DISTRICT COURT

11   NORTHERN DISTRICT OF CALIFORNIA

12   SAN FRANCISCO DIVISION

13

14   UNITED STATES OF AMERICA,   )   No. CR 3-11-70238 JCS
)
15   Plaintiff,   )
)   STIPULATION AND [PROPOSED]
16   v.   )   ORDER CONTINUING HEARING TO
)   JUNE 7, 2011 AT 9:30 A.M. AND
17   MICHAEL BROWN,   )   EXCLUDING TIME FROM MAY 18, 2011
)   THROUGH JUNE 7, 2011
18   Defendant.   )
)
19

20

21   On April 28, 2011, the parties in this case appeared before the Court for preliminary

22   hearing on a criminal complaint. At that time, the parties requested and the Court agreed to set

23   the preliminary hearing for May 18, 2010. Since that April 28 appearance, the parties have been

24   in discussions regarding a proposed resolution for the matter and a related Form 12 that is

25   pending in the Oakland Division of the Northern District of California. The parties have not

26   reached a resolution on the case, however believe that continued discussions are in the interests

27   of the defendant and the government. An additional three weeks will allow the parties enough

28   time to come to a resolution on the case, and the time is required for the effective preparation of

     STIP. AND ORDER
     CR 3-11-70238 JCS

1 defense counsel in representation of defendant.

2   The parties hereby jointly and respectfully request that the Court continue this matter to

3 Tuesday, June 7, 2011 at 9:30 a.m., before the duty Magistrate Judge Elizabeth D. Laporte for a

4 preliminary hearing.

5   The parties further stipulate that pursuant to Federal Rule of Criminal Procedure (FRCP)

6 5.1(d), the time limits set forth in FRCP 5.1(c) be excluded from May 18, 2011 through June 7,

7 2011. The parties agree that – taking into account the public interest in prompt disposition of

8 criminal cases – good cause exists for this extension. Defendant also agrees to exclude for this

9 period of time any time limits applicable under Title 18, United States Code, Section 3161. The

10 parties represent that granting the continuance is the reasonable time necessary for continuity of

11 defense counsel and effective preparation of defense counsel, taking into account the exercise of

12 due diligence. See 18 U.S.C. § 3161(h)(7)(B)(iv). The parties also agree that the ends of justice

13 served by granting such a continuance outweighed the best interests of the public and the

14 defendant in a speedy trial. See 18 U.S.C. § 3161(h)(7)(A).

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16 SO STIPULATED:

17   MELINDA HAAG
                                                      United States Attorney
18
              5/17/2011   /s/ Derek Owens
19 DATED: _____   _____
                                                      DEREK OWENS
20   Assistant United States Attorney

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              5/17/2011   /S/ Garrick Lew
22 DATED: _____   _____
                                                      GARRICK LEW
23   Attorney for the Defendant

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25   For the reasons stated above, the Court hereby vacates the May 18, 2011 hearing before

26 Magistrate Judge Edward M. Chen and continues it to Tuesday, June 7, 2011 at 9:30 a.m., before

27 the duty Magistrate Judge Elizabeth D. Laporte for a preliminary hearing. The Court further

28 finds that an exclusion of time from May 18, 2011 through June 7, 2011 is warranted and that the

STIP. AND ORDER
CR 3-11-70238 JCS   2

1   ends of justice served by the continuance outweigh the best interests of the public and the

2   defendant in a speedy trial. See 18 U.S.C. §3161 (h)(7)(A); FRCP 5.1(d). The failure to grant

3   the requested continuance would deny the defendant of continuity of counsel and would deny

4   defense counsel the reasonable time necessary for effective preparation, taking into account the

5   exercise of due diligence, and would result in a miscarriage of justice. See 18 U.S.C.

6   §3161(h)(7)(B)(iv).

7

8   SO ORDERED.

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10 DATED:_____5/17/11___

11 THE HONO IT IS SO ORDERED   N
    United States

12   Judge Edward M. Chen

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STIP. AND ORDER
CR 3-11-70238 JCS   3